

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

|  |   |                    |
|--|---|--------------------|
| AMEREN TRANSMISSION COMPANY OF ILLINOIS                    | ) |                    |
|  | ) |                    |
| Petition for a Certificate of Public Convenience and       | ) |                    |
| Necessity, pursuant to Section 8-406.1 of the Illinois     | ) |                    |
| Public Utilities Act, and an Order pursuant to Section 8-  | ) | Docket No. 12-0598 |
| 503 of the Public Utilities Act, to Construct, Operate and | ) |                    |
| Maintain a New High Voltage Electric Service Line and      | ) |                    |
| Related Facilities in the Counties of Adams, Brown,        | ) |                    |
| Cass, Champaign, Christian, Clark, Coles, Edgar, Fulton,   | ) |                    |
| Macon, Montgomery, Morgan, Moultrie, Pike,                 | ) |                    |
| Sangamon, Schuyler, Scott and Shelby, Illinois.            | ) |                    |

**AMEREN TRANSMISSION COMPANY OF ILLINOIS’  
RESPONSE TO STOP THE POWER LINES COALITION’S MOTION TO AMEND  
CASE MANAGEMENT PLAN TO EITHER ELIMINATE THE DECEMBER 31, 2012  
FILING REQUIREMENT OR TO EXTEND THE TIME FOR SAME**

Pursuant to the December 27, 2012 Notice of Administrative Law Judges’ (ALJs) Ruling, Ameren Transmission Company of Illinois (ATXI) respectfully submits this response to putative intervenor Stop the Power Lines Coalition’s (Coalition) motion to extend or eliminate the deadline for Staff and Intervenors to identify alternate routes, as provided for in the Case Management Order (CMO) entered by the ALJs on December 14, 2012. The appropriate case schedule in this proceeding has been thoroughly briefed. Following that briefing, the ALJs’ December 14, 2012 Ruling entered the CMO, including the case schedule. It should not now be revised to accommodate a late intervenor. Although ATXI did not propose that a separate Staff and Intervenor alternate route notification date be part of this proceeding, now that such a deadline has been established, it cannot be altered without revisiting the entire case schedule. For this and the reasons enumerated below, the Coalition’s motion should be denied.

1. The Coalition filed a petition to intervene on December 21, 2012, one week after entry of the December 14, 2012 CMO of which it now complains. That petition has not yet been granted. For that reason alone, the Coalition’s motion is procedurally improper; the Coalition is

not a party. See 83 Ill. Adm. Code §§ 200.40 (defining “Party”); 200.200(b) (leaving to the discretion of the ALJs whether to allow a putative intervenor to participate). The Coalition’s motion also should be denied because, even if permitted to intervene or otherwise participate, the Coalition is barred from seeking a change in the approved schedule. The Coalition must, upon intervention, be bound by the ALJs’ order setting the case schedule. Rule 200.200 of the Commission’s Rules of Practice and Procedure provides:

Except for good cause shown, an intervenor *shall accept the status of the record as the same exists at the time of the beginning of that person’s intervention*. Subject to Section 200.850, any intervenor shall be allowed to comment in briefs and oral arguments on any matter addressed in the proceeding, whether before or after his intervention; and *such intervenor shall be bound by rulings and orders theretofore entered*.

83 Ill. Adm. Code § 200.200(e) (emphasis added). The Coalition has not demonstrated good cause for relief from this rule. Its six-week delay in engaging counsel and petitioning for intervention in this proceeding certainly is not sufficient. See, e.g., GTE North Inc., Docket 93-0191, Order, 1993 Ill. PUC LEXIS 488, \*5-6 (Dec. 15, 1993) (finding putative intervenor bound to accept the record as of the time of its intervention). Indeed, the Coalition recognizes as much. In its December 21, 2012 petition to intervene, it represented to the Commission, the “Stop the Power Lines Coalition agrees to accept the status of the record as it exists at the time of the filing of this Petition . . . .” (Coalition Pet. to Intervene ¶ 2 (filed Dec. 21, 2012).) Thus, the Coalition previously agreed *not* to do to what its motion now requests—alter the record as it existed as of December 21, 2012.

2. Further, the Coalition offers no explanation why it only now has filed its motion to alter that schedule. The Coalition, as did other parties to the proceeding, had an opportunity to timely intervene and to respond on December 10, 2012 to ATXI’s proposed case schedule and

case management order and to the ALJs' inquiries regarding the appropriate case schedule as discussed at the December 3, 2012 prehearing conference. See Tr. 59-62 (Dec. 3, 2012). The Coalition did not, and it has offered no explanation warranting alteration of the CMO entered by the ALJs.<sup>1</sup>

3. The Coalition also claims, because ATXI filed its petition pursuant to Section 8-406.1 of the Public Utilities Act, 220 ILCS, 5/8-406.1, and the expedited procedure permitted therein, "the rights of Staff and Intervenor to give ATXI's proposed routes full and thoughtful examination [will be] forfeited . . . ." (Coalition Mtn. ¶ 3 (filed Dec. 26, 2012).) This allegation is misplaced. Here, the Coalition ignores that, in furtherance of the expedited process, ATXI held nearly 100 open houses inviting interested stakeholders and affected property owners to review its proposed routes and to raise any concerns they may have. Further, under the expedited process, ATXI was obligated to provide, and did provide, voluminous information related to its proposed routes in conjunction with its application. But for the expedited process, this information only would have been provided through discovery, which may have taken weeks or even months. Finally, ATXI agreed to extend the length of this proceeding, as permitted by Section 8-406.1, resulting in a due date for the Commission's order nearly seven and a half months after ATXI's application was filed. In sum, the requirements of Section 8-406.1—with which ATXI has complied—ensure "ATXI's proposed routes [receive] full and thoughtful examination," despite the Coalition's unsupported contention to the contrary.

4. The alternative suggested by the Coalition—to extend the Staff and Intervenor alternative route identification filing to the deadline for Staff and Intervenor direct testimony—

---

<sup>1</sup> The Coalition alleges its members are included in the list of potentially affected landowners attached as Exhibit C to ATXI's Petition. (Coalition Pet. to Intervene ¶ 1.) As such, its members should have received notice of the December 3, 2012 prehearing conference and were permitted the opportunity to participate. The Coalition makes no assertions to the contrary.

while perhaps well intended, nevertheless is flawed. If parties are permitted to identify the potentially newly affected landowners on February 11, 2013, the Commission will have to prepare a new service list and send those landowners notice in a timely fashion. Some of the landowners may seek to intervene in this proceeding, yet they would unlikely be able to file testimony under the current schedule. Thus, a change in the case schedule entered on December 14, 2012 spawns further procedural issues and obfuscates the ALJs' express desire to ensure the Commission has ample time to consider the record and briefing in its deliberations. (See Tr. 76.)

5. The Coalition also asserts, if the Commission approves a route other than the Primary or Alternate Route proposed by ATXI, "the proper procedure" would be to deny in part ATXI's petition and require a second proceeding to "pursue" that alternative route and notify any affected landowners. (Coalition Mtn., ¶ 8..) Such an approach would be unnecessary and inefficient, as well as incorrect as a matter of law. The Commission can consider alternate routes proposed by Staff and other parties in expedited transmission line proceedings. See, e.g., Ameren Ill. Co., Docket 12-0080, Order, pp. 22-23 (Aug. 15, 2012) (adopting modification to transmission line route proposed by Staff). In such cases, notice is issued to the newly impacted landowners. Moreover, the Commission's findings in this docket (as in any proceeding before it) must be based exclusively on the record evidence. See 5 ILCS 100/10-35(c); 220 ILCS 5/10-103 ("any finding, decision or order made by the Commission shall be based exclusively on the record for decision in the case . . . .") As such, if the Commission finds some other route better meets the statutory criteria, it must be because there is record evidence on which to base such conclusion; in other words, the alternate route must be one proposed by ATXI, Staff or Intervenors via testimony or other evidence. If record evidence supports another route, that route can be approved in this docket, and there is no need to open another docket to reconsider it. See,

e.g., Ameren Ill. Co., Docket 06-0179, Order, p. 17 (May 16, 2007) (approving transmission line route other than that proposed by petitioner).)

6. Finally, although the Coalition complains of the difficulty of identifying alternate routes and landowners, their concerns are belied by the fact that five parties (Macon County Property Owners, Sub. of Alt. Route (Dec. 28, 2012); Corzine, Sub. of Alt. Route (Dec. 28, 2012); N. Kohl Grocery, Sub. of Alt. Route (Dec. 28, 2012); FutureGen Industrial Alliance, Sub. of Alt. Route (Dec. 28, 2012); Copeland, Sub. of Alt. Route (Dec. 27, 2012)) have already identified alternate routes and the affected landowners.

For all the reasons above, Ameren Transmission Company of Illinois respectfully submits that the Case Management Order entered on December 14, 2012 not be altered to accommodate late putative Intervenor Stop the Power Lines Coalition and that the Coalition's December 26, 2012 motion to amend the case schedule in this proceeding be denied.

Dated: December 28, 2012

Respectfully submitted,

Ameren Transmission Company of Illinois

/s/ Albert D. Sturtevant

One of their Attorneys

Edward C. Fitzhenry  
Matthew R. Tomc  
Eric E. Dearmont  
**AMEREN SERVICES COMPANY**  
One Ameren Plaza  
1901 Chouteau Avenue  
St. Louis, Missouri 63166  
(314) 554-3533  
(314) 554-4014 (fax)  
efitzhenry@ameren.com  
mtomc@ameren.com  
edearmont@ameren.com

Mark A. Whitt  
Shannon K. Rust  
**WHITT STURTEVANT LLP**  
88 East Broad Street, Suite 1590  
Columbus, Ohio 43215  
(614) 224-3911  
whitt@whitt-sturtevant.com  
rust@whitt-sturtevant.com

Albert D. Sturtevant  
Anne M. Zehr  
Rebecca L. Segal  
**WHITT STURTEVANT LLP**  
180 N. LaSalle Street, Suite 2001  
Chicago, Illinois 60601  
(312) 251-3017  
sturtevant@whitt-sturtevant.com  
zehr@whitt-sturtevant.com  
segal@whitt-sturtevant.com

Christopher W. Flynn  
Attorney at Law  
180 N. LaSalle Street, Suite 2001  
Chicago, Illinois 60601  
cwflynnlaw@gmail.com

**CERTIFICATE OF SERVICE**

I, Albert D. Sturtevant, an attorney, certify that on December 28, 2012, I caused a copy of the foregoing *Ameren Transmission Company of Illinois' Response to Stop the Power Lines Coalition's Motion to Amend Case Management Plan to Either Eliminate the December 31, 2012 Filing Requirement or to Extend the Time for Same* to be served by electronic mail to the individuals on the Commission's Service List for Docket 12-0598.

/s/ Albert D. Sturtevant

Attorney for Ameren Transmission  
Company of Illinois